

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

NATHANIEL SMITH,

Petitioner,

Civil Action No. 14-CV-12832

v.

HON. BERNARD A. FRIEDMAN

JEFF LARSON,

Respondent.

**OPINION AND ORDER DISMISSING PETITIONER'S APPLICATION FOR A WRIT
OF HABEAS CORPUS, DENYING A CERTIFICATE OF APPEALABILITY, AND
DENYING LEAVE TO PROCEED ON APPEAL IN FORMA PAUPERIS**

Petitioner in this matter seeks a writ of habeas corpus pursuant to 28 U.S.C. § 2254. He alleges he “is illegally detained and unlawfully restrained . . . as a result of the Respondent’s reliance on illegal and unlawful orders of commitment that were erroneously issued by a Michigan State Circuit Court Judge.” Pet. at 2. The petition itself does not reveal the reason for petitioner’s incarceration, but a document attached thereto from the Michigan Department Corrections (“MDOC”) indicates petitioner was sentenced on February 26, 2004, to one year and eleven months to fourteen years on an uttering and publishing charge. The same information appears on the MDOC’s Offender Tracking Information System.

Because it appeared that the instant petition, which was filed on July 17, 2014, was filed long after expiration of the one-year limitations period applicable to habeas actions, *see* 28 U.S.C. § 2244(d)(1), the Court ordered petitioner to show cause why it should not dismiss the petition as untimely. Petitioner has not responded to the Court’s order, or requested additional time to respond, and the deadline for him to do so has expired. Further, nothing in the petition suggests that the limitations period may be equitably tolled.

As any appeal in this matter would be frivolous, the Court shall not issue a certificate of appealability. For the same reason, petitioner may not proceed on appeal in forma pauperis. Accordingly,

IT IS ORDERED that the petition in this matter is dismissed as untimely.

IT IS FURTHER ORDERED that no certificate of appealability shall issue and that petitioner may not proceed on appeal in forma pauperis.

S/ Bernard A. Friedman_____
BERNARD A. FRIEDMAN
SENIOR UNITED STATES DISTRICT JUDGE

Dated: October 9, 2014
Detroit, Michigan